HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 16977 OF 2002

Between:

Gopala Krishna Kalanidhi

…Petitioner

AND

Indian Railways,
A Government of India (under taking),
Rep., by its Chairman, Indian Railway Board,
Rail Bhavan, NEW DELHI – 110 001
and two others

...Respondents

: O R D E R :

The petitioner in person

Counsel for the respondents : Shri T.S. Venkata Ramana

August 6, 2007

Per G.S.SINGHVI, CJ

The petitioner, who is a practising advocate, has filed this petition in the name of public interest litigation for grant of a declaration that the existing system of allotment of berths is discriminatory, arbitrary and unconstitutional. He has further prayed for issue of a mandamus to the respondents to allot berths in reservation coaches of three-tier compartments linked to Super Fast Expresses and other Fast Passenger Trains through computerized reservation system keeping in view the height of the passengers.

In the affidavit filed by him, the petitioner has made general averments regarding availability of berths in three-tier A/C sleeper coaches and has pleaded that while the length of six berths in one cabin is 71 inches, the two side berths are only 64 inches and even though there is no system of allotment of berths keeping in view the height of the passengers, all the passengers are made to pay identical reservation charges. In paragraph 5 of the affidavit, he averred that his height is 5' 7" and that on account of allotment of side berths in three-tier compartments of Super Fast Express Trains like A.P. Express and other fast moving trains, he could not sleep and that despite legal notice dated 10.8.2002 sent to the railway administration, the respondents have not taken action for ensuring allotment of seats to the passengers as per their height.

In the counter-affidavit filed by him, Shri M.P. Reddy, Deputy Chief Commercial Manager, South Central Railway has spelt out the methodology of allotment of accommodation in the following words:

2. I submit the allocation logic in the matter of passenger reservation is as under:

Allocation logic:

a) Accommodation is allotted on first come first served basis.

b) The system has a unique way of allocating berths/seats to passengers in a way that the optimum utilization of accommodation is achieved.

c) Choice of berths/seats of passengers is met in case these berths

are available. Choices available in different classes are as under:

A/C Chair Car and 2nd Seats	Window Seat (W/S)
Ist ACC and First Class	Cabin/Coupe allotment
2-tier ACC Sleeper	Lower/Upper Berths in cabin
3 tier ACC Sleeper/SL Class	Lower Berth, Middle Berth, Upper Berth, Side Lower Berth, Side Upper Berth

Choice of lower berths for old persons (male 60 years and above and female 45 years and above), Orthopaedically handicap persons, heart patients, cancer patients and TB patients is taken by the system by default and berths are allotted accordingly in case these are available vacant at the time of booking. However, it is always tried that choice berths are allotted alongwith compact accommodation Compactness always takes the priority over the choice of accommodation.

General passengers are booked against the general quota. Ladies against the 'Ladies quota'. A few berths are kept reserved for booking special type of passengers like VIP's, Foreign Tourists, Members of Parliament House and Defence Personnel. These berths are kept reserved and are released to the general public only if they remain vacant at the time of chart printing.

In paragraph 5 of his affidavit, Shri M.P. Reddy has averred as under:

5. In reply to paragraph – 4 and 5 of the affidavit of the petitioner it is submitted that the design aspects of the Railway Coaches are decided by the respondents Railway. It is submitted that the overall dimensions of the coach are limited by the gauge and the permitted schedule of moving dimensions for railway vehicles for that gauge. Coach layouts have been designed on the basis of average requirements of Indian passengers with a view to optimize the carrying capacity with reasonable comfort for a major section of the passenger. Increase in the length of side berth beyond the present sizes of 1702 mm for II class Sleeper and 1810 mm for AC 3-Tier will reduce the carrying capacity of coaches by about 11% and 12.5% respectively. Indian Railways particularly, for sleeper class coaches, have to provide for an ever growing number of passengers. It is not desirable to reduce the passenger carrying capacity by 11% and 12% only to accommodate a limited section of passengers. In fact, even after increasing the length of side berth to make it equal to the transverse berth, there will be taller passengers who will not be accommodated.

It is further submitted that side berths are being made wider and larger with 1800 mm length in new LHB design of coaches to improve passenger comfort. Production of such coaches has commenced at Rail Coach Factory, Kapurthala under transfer of technology with

M/s.LHB, Germany. These coaches are longer in length by about 2.2 metre as compared to conventional coaches. Indian Railways, based on feedback from passengers and also in-house reviews, constantly upgrade and improve the coach interiors to make them more comfortable. Railways have launched a special drive to improve the interiors and the fittings by removing all sharp edges, protrusions and corners which could hurt passengers during normal use or in case of mishaps.

According to Shri Reddy, if the system of providing reservation as per the height of the passengers is introduced, then it may not be possible to provide reservation to needy passengers like senior citizens, ladies and orthopaedically handicapped and it will also not be possible to provide compact accommodation to the families and group of people.

We have heard the petitioner, who appeared in person, and the learned counsel for the respondents. In our opinion, the writ petition is a thoroughly misconceived piece of litigation, which ought to have been dismissed at the threshold. The averments contained in the writ petition are not only vague to the core, but the issue raised by the petitioner has nothing to do with public interest. We can take judicial notice of the fact that lakhs of passengers travel everyday in the Indian Railways and thousands of them travel in reserved compartments including three-tier and two-tier A/C compartments. The reservations are provided to the passengers on first come first served basis with some preference to senior citizens and physically challenged persons. They are invariably accommodated on the lower berths in the main cabin. The computer software developed by the railway administration postulates allotment of seats as per the availability. There is no provision in the application for reservation to take note of the height of the passenger, which is bound to vary from person to person. If the system is modified as per the desire of the petitioner, the purpose of giving preference to identified categories of passengers will be totally defeated. Not only this, the availability of total number of

seats will be reduced by 11% in A/C two-tier sleeper and 12.5% in A/C three-tier sleeper. Such a course will be highly detrimental to public interest. Therefore, the petitioner cannot be heard to make a grievance on behalf of the general public and seek an unusual direction for compelling the respondents to allot seats keeping in view the height of the passengers.

In **Guruvayoor Devaswom Managing Committee and another v. C.K. Rajan and others**[1], the Supreme Court considered the various facets of public interest litigation and laid down the following propositions:

> "(i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court. The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfil its constitutional promises.
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> (ii) Issues of public importance, enforcement of fundamental rights of a large number of the public vis-à-vis the constitutional duties and functions of the State, if raised, the Court treats a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings. On the administrative side of this Court, certain guidelines have been issued to be followed for entertaining letters/petitions received by this Court as public interest litigation.
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> (iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human rights provide for reasonable and fair trial.
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> (iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the deprived, the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right.
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> (v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition.
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> (vi) Although procedural laws apply to PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature of the petition as also facts and circumstances of the case.

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation.

(viii) However, in an appropriate case, although the petitioner might have moved a court in his private interest and for redressal of the personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice.

(ix) The Court in special situations may appoint a Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee.

(x) The Court would ordinarily not step out of the known areas of judicial review. The High Court although may pass an order for doing complete justice to the parties, it does not have power akin to Article 142 of the Constitution of India.

The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.

(xi) Ordinarily, the High Court should not entertain a writ petition by way of public interest litigation questioning the constitutionality or validity of a statute or a statutory rule.

It is not intended to lay down any strict rule as to the scope and extent of a public interest litigation, as each case has to be judged on its own merits. Furthermore, different problems have to be dealt with differently."

In **Rohit Pandey v. Union of India and others**[2], the Supreme Court adversely commended on the public interest litigation filed by a lawyer on the basis of newspaper cutting and observed:

"We expect that when such a petition is filed in public interest and particularly by a member of the legal profession, it would be filed with all seriousness and after doing the necessary homework and enquiry. If the petitioner is so public-spirited at such a young age as is so professed, the lease one would expect is than an enquiry would be made from the authorities concerned as to the nature of investigation which may be going on before filing a petitioner that the investigation be conducted by the Central Bureau of Investigation. Admittedly, no such measures were taken by the petitioner. There is nothing in the petition as to what, in fact, prompted the petitioner to approach this Court within two-three days of the second publication dated 12-2-2004, in the newspaper Amar Ujala. Further, the State of Uttar Pradesh has filed its affidavit a year earlier i.e. on 7-10-2004, placing on record the steps taken against the accused persons,

> including the submission of the charge-sheet before the appropriate court. Despite one year having elapsed after the filing of the affidavit by the Special Secretary to the Home Department of the Government of Uttar Pradesh, nothing seems to have been done by the petitioner. The petitioner has not even controverted what is stated in the affidavit. Ordinarily, we would have dismissed such a misconceived petition with exemplary costs but considering that the petitioner is a young advocate, we feel that the ends of justice would be met and the necessary message conveyed if a token costs of rupees one thousand is imposed on the petitioner."

Keeping in view the propositions laid down in the aforementioned judgments, we hold that the petitioner has failed to make out a case for issue of a mandamus in terms of the prayer made and the writ petition is liable to be dismissed as a frivolous piece of litigation. Ordered accordingly. The petitioner shall pay costs of Rs.1,000/- to the respondents.

As a sequel to dismissal of the writ petition, WPMP No. 21275 of 2002 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 6, 2007

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[1] (2003) 7 SCC 546

[2] (2005) 13 SCC 702